

-- 28. The emulsion according to Claim 20 wherein the copolymer is present in an amount of 0.2-10% by weight, based on the weight of the peroxide. --;

-- 29. The emulsion according to any one of Claims 16-19 wherein the HLB value of the ethoxylated fatty alcohol is greater than 17.0. --

#### REMARKS

Entry of the present Amendment is requested since it is deemed that the amendments made herein will either place the application in condition for allowance or in better form for appeal.

A one-month extension of time to respond is herewith requested so that the period for response expires on October 25, 2002.

A new set of Claims (Claims 16-29) are enclosed herewith.

The objection to original Claim 6 has been cured since new Claim 20 contains the wording suggested by the Examiner.

The Claim rejections under Section 112 are believed to no longer pertain to the new Claims. In regard to original Claims 10 and 11, new Claims 24 and 25 contain the wording proposed by the Examiner. In regard to original Claim 13, which is now presented as Claim 18, the requirement of requiring refrigeration and of being present in the recited amount are believed to properly further engraft an additional limitation onto the scope of Claim 17 from which it depends.

Claims 1-15 have been rejected under 35 U.S.C. 103(a) as unpatentable over EP 492,712 in combination with PCT WO 98/18835, US 4,499,250, US 4,547,481 or US 4,734,135. In order to overcome this ground of rejection, original Claims 1 and 2 have now been combined forming a new Claim 16 that no longer contains the term "comprising" to which the examiner has objected. It is submitted that the subject matter that is articulated in new Claim 16 as well as the claims that are dependent thereon is not obvious over the cited prior art.

Cited EP 492,12 discloses a peroxide emulsion comprising a copolymer of an unsaturated dicarboxylic acid and a C<sub>8</sub>-C<sub>24</sub> olefin, and a second copolymer of at least one polyalkylene and a polysiloxane. The presence of ethoxylated fatty alcohols in the emulsifier system is neither mentioned nor suggested by this reference.

PCT WO 98/18835 describes a peroxide emulsion comprising one or more polyvinyl alcohols and one or more emulsifiers which may be an ethoxylated fatty alcohol. Hence, if the teachings of EP 192,712 and PCT WO 98/18835 were to be combined, a peroxide emulsion would be obtained that contained at least a copolymer of an unsaturated dicarboxylic acid and a C<sub>8</sub>-C<sub>24</sub> olefin, a copolymer of at least one polyalkylene and a polysiloxane, a polyvinyl alcohol and an ethoxylated fatty alcohol.

In order to arrive at the subject matter of Claim 16, the person of ordinary skill in the art has to specifically choose to leave out from the composition the copolymer of polyalkylene and polysiloxane and polyvinylalcohol, although neither of the above-mentioned documents gives any direct reference or suggestion to help such a person with this choice. Moreover, PCT WO 98/18835 specifically refers to the composition described in EP 492,712 as

being an unacceptable formulation of polyvinyl chloride, thus indicating that the person of ordinary skill in the art, when looking at the EP document, is looking in the wrong direction. Consequently, such a person would never combine these two documents, as the Examiner has done.

The person of ordinary skill in the art would also not derive the subject matter of new Claim 16 from a combination of EP 492,712 and US 4,547,481 (or US 4,499,250, a divisional thereof). US 4,547,481 describes a peroxide emulsion comprising an ethoxylated fatty alcohol or an ethoxylated fatty acid. If one were to combine the EP document with the teachings of either of these US patents, one first has to choose the ethoxylated fatty alcohol, instead of the ethoxylated fatty acid, and subsequently one has to leave out the copolymer of polyalkylene and polysiloxane in order to arrive at the subject-matter of new Claim 16. Since these cited documents do not refer to one another in any way, and since they do teach or indicate to combine both teachings, these choices would not have been to the person of ordinary skill in the art. In addition, US 4,499,250 teaches such a person that ethoxylated fatty acids are preferred over ethoxylated fatty alcohols (see Col. 3, lines 38-40), thereby making the choice for an emulsion with ethoxylated fatty alcohols even less obvious.

Moreover, a combination of the cited EP document, PCT WO 98/18835 or US 4,547,481/US 4,734,135 does not teach the person of ordinary skill in the art the peroxide emulsion of new Claim 16 either for exactly the same reasons enumerated above. More specifically, the person of ordinary skill in the art would not derive, in an allegedly obvious manner, from such a combination of prior art documents a peroxide emulsion which consists

essentially of a copolymer of an  $\alpha,\beta$ -unsaturated dicarboxylic acid and a  $C_8-C_{24}$   $\alpha$ -olefin, the acid groups of which are esterified with an ethoxylated alcohol having a degree of ethoxylation of 1-45.

Allowance of all pending Claims in their current form is requested in view of the amendments and comments contained herein.

Respectfully submitted,

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